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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/817,599	04/02/2004	Michael Joseph Toutonghi	13768.991	3131
47973 7590 12/08/2008 WORKMAN NYDEGGER/MICROSOFT 1000 EAGLE GATE TOWER 60 EAST SOUTH TEMPLE SALT LAKE CITY, UT 84111				
EXAMINER				
WILLIAMS, CLAYTON R				
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2457				
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12/08/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/817,599

Applicant(s)

TOUTONGHI, MICHAEL JOSEPH

Examiner

Clayton R. Williams

Art Unit

2457

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 September 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,5-7,9-14,16,18 and 20-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3,5-7,9-14,16,18 and 20-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. Claims 1, 3, 5-7, 9-14, 16, 18 and 20-25 are pending in this application per amendment.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1, 14, 18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

a. "selectively choosing at least one available user storage device to store the new data object" is indefinite regarding what method is employed to select a user storage device.

b. "establishing a communication session with the at least one available user storage device" and "sending the new data object to the at least one available user storage device for storage therein" are both unclear whether "the at least one available user storage device" is the user storage device that was "selectively chosen".

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 3, 9-11, 13, 14, 16, 18, 20, 23-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yukie et al., US 6,956,833 (hereinafter Yukie), in view of Bucher, US 6,928,476 (hereinafter Bucher).

For claims 1, 14 and 18, Yukie discloses a method for a data acquisition device, which is configured to generate at least two different types of data objects, to distinguish between the at least two different types of data objects, and to selectively and automatically transfer only some of the data objects, including a new data object to a user storage device and based upon a determination of data object type (Abstract), the method comprising:

detecting a new data object (col. 6, lines 55-59, disclosure of device detecting digital image after it has been captured);

determining a type of the new data object from a plurality of available types (col. 6, lines 60-63);

determining whether the new data object should be stored locally or whether the new data object should be stored remotely at a user storage device, wherein the determination of whether the new data object should be stored locally or, alternatively, at a remote user storage device is based at least in part on the determination of the type of the new data object and such that the new data object will be automatically transferred to the user storage device only when it is determined that the new data

object is of a particular type configured for automatic transfer to the user storage device (col. 7, lines 35-47);

selectively choosing at least one available user storage device to store the new data object (col. 7, lines 35-47);

establishing a communication session with the at least one available user storage device (col. 6, lines 60-63, disclosure that camera establishes contact with remote storage); and

sending the new data object to the at least one available user storage device for storage therein (col. 6, lines 60-63, data objects to the user storage device via an established connection).

Yukie fails to explicitly disclose:

establishing a communication session with an online connection service and communicating with the online connection service to obtain a list of available user storage devices associated with the data acquisition device in response to determining that the new data object is of the particular type configured for automatic transfer, the method further comprising receiving a network address for each available user storage device on the list;

However, Bucher discloses a remote data storage system that presents a user with a list of remote storage devices to which data may be sent (Bucher, col. 7, lines 1-

10). Yukie and Bucher are analogous art because both are from the field of the transfer of data from a client to a remote server.

It would have been obvious to one skilled in the art at the time of the invention to modify the teachings of Yukie with those of Bucher, because this modification would extend the remote storage system as taught by Yukie to allow for a plurality of possible storage options that are presented to a user in a tabular format.

For claims 3, 16 and 20, the combination of Yukie and Bucher discloses wherein the new data object comprises a media file selected from the group consisting of a sound file, a voice file, an image file, and a video file (Yukie, col. 7, lines 35-40).

For claim 9, the combination of Yukie and Bucher discloses the method of claim 1, wherein communicating with the online connection service comprises sending authentication information to authenticate the data acquisition device to the online connection service (Yukie, col. 4, lines 1-8).

For claim 10, the combination of Yukie and Bucher discloses the method of claim 1, further comprising requesting permission to store the new data object at the at least one available user storage device before sending the object to the at least one available user storage device (Bucher, col. 4, lines 23-29, disclosure that remote storage device must first approve data transfer before receipt of data).

For claim 11, the combination of Yukie and Bucher discloses the method of claim 10, wherein the requesting permission is performed implicitly by sending authentication information to the at least one available user storage device and receiving an authentication success message from the at least one available user storage device (Bucher, col. 4, lines 23-29, disclosure that remote storage device must first approve data transfer before receipt of data).

For claim 13, the combination of Yukie and Bucher discloses the method of claim 1, wherein establishing the communication session with the at least one available user storage device comprises establishing a link with the at least one available user storage device through an intermediate proxy server (Bucher, col. 4, lines 43-48).

For claim 23, the combination of Yukie and Bucher discloses the method of claim 1, wherein the online connection service stores active presence information about the available user storage devices associated with the data acquisition device (Bucher, col. 7, lines 1-4, disclosure that system only provides information regarding "available" systems).

For claim 24, the combination of Yukie and Bucher discloses the method of claim 1, wherein establishing a communications session with the at least one available user storage device comprises a communications session which is separate and distinct from

the communications session with the online connection service (Bucher, col. 7, lines 38-43).

For claim 25, the combination of Yukie and Bucher discloses the method of claim 1, wherein image data objects are of the particular type configured for automatic transfer, while voice data objects are not, and such that, such that image data objects are selected for automatic transfer while voice data objects are refrained from being selected for automatic transfer (Yukie, col. 9, lines 6-13 and 20-25, disclosure of wireless device which can selectively transfer image and audio data objects).

6. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yukie, in view of Bucher, and further in view of Snyder et al., US 5,564,109 (hereinafter Snyder).

For claim 5, the combination of Yukie and Bucher fails to explicitly disclose the method of claim 1, further comprising receiving a prioritized list of available user storage devices associated with the data acquisition device from the online connection service.

However, Snyder discloses a system which provides a user with a ranked list of peripherals which can perform a designated task. (Synder, col. 4, lines 5-10). The combination of Yukie and Bucher and Synder are analogous art because both solve the problem of matching a user device with an appropriate remote device by way of providing a list of suitable devices to a requesting user device.

It would have been obvious to one skilled in the art at the time of the invention to modify the teachings of the combination of Yukie and Bucher with those of Synder, because this modification would extend the remote storage system as taught by the combination of Yukie and Bucher to include providing a requesting user device with a ranked list of available entities on which to store data.

7. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yukie, in view of Bucher, and further in view of Harrow et al., US 20030009586 (hereinafter Harrow).

For claim 12, the combination of Yukie and Bucher fails to explicitly disclose wherein establishing the communication session with the at least one available user storage device comprises establishing a peer- to-peer link with the at least one available user storage device.

However, Harrow discloses a system which directs a client to establish a peer-to-peer connection to another peer for the purpose of carrying out a desired function (Harrow, [0027]). The combination of Yukie and Bucher and Harrow are analogous art because both are from the field of matching a user device with an appropriate remote device to carry out a desired function.

It would have been obvious to one skilled in the art at the time of the invention to modify the teachings of the combination of Yukie and Bucher with those of Harrow,

because this modification would extend the remote storage system as taught by the combination of Yukie and Bucher.

7. Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yukie, in view of Bucher, in view of Snyder, and further in view of Domenikos et al., US 5838916 (hereinafter Domenikos).

For claim 6, the combination of Yukie, Bucher and Snyder fails to explicitly disclose further comprising receiving information on the communications protocols supported by each available user storage device on the prioritized list.

However, Domenikos discloses a system which provides a client system with a list of servers, including communication protocol information, that provide a desired service (Domenikos, col. 19, lines 18-35). The combination of Yukie, Bucher and Snyder and Domenikos are analogous art because both solve the problem of providing a user device with an appropriate remote device by way of providing a list of suitable devices to a requesting user device.

It would have been obvious to one skilled in the art at the time of the invention to modify the teachings of the combination of Yukie, Bucher and Snyder with those of Domenikos, because this modification would extend the combination to include providing a requesting user device with a ranked list, which includes protocol information, of available entities on which to store data.

For claim 7, the combination of Yukie, Bucher, Snyder and Domenikos discloses the method of claim 6, wherein the sending of the new data object is in accordance with the communications protocol supported by the at least one available user storage device (Domenikos, col. 19, lines 18-35, it is inherent that user device will make use of information collected regarding methods for interfacing with remote devices with regard to establishing connection).

8. Claims 21 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yukie, in view of Bucher, and further in view of Crosbie et al., US 7,197,711 (hereinafter Crosbie).

For claim 21, the combination of Yuke and Bucher fails to explicitly disclose the method of claim 1, wherein determining if the type of the new data object is of a type configured for automatic transfer to an available user storage device comprises reading a configuration file included on the data acquisition device which specifies a plurality of data object types to automatically transfer to an available user storage device.

However, Crosbie discloses a system in which a user can configure synchronization settings for a mobile device (Crosbie, col. 14, lines 9-16). The combination of Yukie, Bucher and Crosbie are analogous art because both are from the field of synchronizing data objects between mobile devices and servers.

It would have been obvious to one skilled in the art at the time of the invention to modify the teachings of the combination with Crosbie, because this modification would extend the combination to include a user explicitly settings the conditions under which synchronization occurs .

For claim 22, the combination of Yukie, Bucher and Crosbie discloses the method of claim 21, further comprising wherein the configuration file included on the data acquisition device is input by a user (Crosbie, col. 14, lines 9-16).

Response to Arguments

Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clayton R. Williams whose telephone number is 571-270-3801. The examiner can normally be reached on M-F (8 a.m. - 5 p.m.).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on 571-272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Nov. 24, 2008
CRW

Clayton R. Williams
Patent Examiner
Art Unit 2457

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/ARIO ETIENNE/

Supervisory Patent Examiner, Art Unit 2457